MOTION FILED OCT 21 1953

IN THE

Supreme Court of the United States

OCTOBER TERM, 1953

No. 139

ERIK A. BERTEL, LAURITS SORENSEN, BORGE A. R. JENSEN, HENRY L. LUND and ARNE SORENSEN,

Petitioners,

against

PANAMA TRANSPORT COMPANY, ESSO STANDARD OIL CO. (Chile) S.A.C., formerly WEST INDIA OIL COMPANY CHILE S.A.C., STANDARD OIL COMPANY (N. J.) and STANDARD OIL COMPANY OF NEW JERSEY,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MOTION FOR LEAVE TO FILE PETITION

and

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI

ROBERT M. BENJAMIN,
ABRAHAM FISHBEIN,
ROBERT T. TATE,
JEROME Y. STURM,
Counsel for Petitioners.

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Petitioners respectfully move for leave to file the annexed petition for rehearing of the order of this Court, entered on October 12, 1953, denying the petition for a writ of certiorari in this case. The annexed petition is based on a ground not specified in paragraph 2 of Rule 33, and counsel are thus unable to certify that the petition is restricted to the grounds therein specified. The granting of

the petition being, nevertheless, within the inherent power of the Court, petitioners respectfully request that the Court exercise its power to entertain the petition.

ROBERT M. BENJAMIN,
ABRAHAM FISHBEIN,
ROBERT T. TATE,
JEROME Y. STURM,
Counsel for Petitioners.

October 20, 1953.

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PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI

Petitioners respectfully pray that this Court grant rehearing of its order of October 12, 1953, denying the petition for a writ of certiorari, and that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Second Circuit as prayed for in the petition filed herein on June 23, 1953.

The order entered October 12, 1953, recites that "Mr. Justice Douglas and Mr. Justice Jackson are of the opinion certiorari should be granted." Since such recitals on the denial of writs of certiorari do not necessarily reflect the full vote in favor of issuance, it is possible that there were three votes in favor.

The Journal of Proceedings of the Court on October 12, 1953, as reported in "The United States Law Week", contains also the following statement by Mr. Chief Justice Warren:

> "The Chief Justice having taken office on the day the matters to be reported on today were considered by the Court in conference, and having no familiarity with the records, did not participate in consideration of them."

Petitioners respectfully urge that the questions of law presented by this case are of sufficient importance to justify reconsideration by the full Court of its order denying the petition.

The subject-matter, the proper delimitation of the rights of seamen to salvage, has not so far as we are aware been the subject of decision by this Court since the time of Chief Justice Marshall, nor the subject of consideration by this Court in the present century. For the reasons stated in the petition, it is of first importance to public policy that the law in this field be settled by this Court in such a way as to safeguard the ends which the law of salvage is designed to promote, and that in so doing this Court correct the decision of the Court of Appeals in this case, which exceeds in severity any of which we are aware.

It is respectfully urged, therefore, that rehearing be granted, that the petition for a writ of certiorari be considered by the full Court, and that upon such consideration a writ of certiorari issue to the Court of Appeals for the Second Circuit.

Respectfully submitted,

ROBERT M. BENJAMIN,
ABRAHAM FISHBEIN,
ROBERT T. TATE,
JEROME Y. STURM,
Counsel for Petitioners.

Certificate of Counsel

We hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay.

ROBERT M. BENJAMIN,
ABRAHAM FISHBEIN,
ROBERT T. TATE,
JEROME Y. STURM.